



Billing Code 3410-10

**DEPARTMENT OF AGRICULTURE**

**Commodity Credit Corporation**

**7 CFR Part 1471**

**RIN 0551-AA86**

**Pima Agriculture Cotton Trust Fund and Agriculture Wool Apparel Manufacturers Trust Fund**

**AGENCY:** Foreign Agricultural Service and Commodity Credit Corporation (CCC), USDA.

**ACTION:** Final rule with request for comments.

**SUMMARY:** This final rule implements the Pima Agriculture Cotton Trust Fund (Agriculture Pima Trust) and the Agriculture Wool Apparel Manufacturers Trust Fund (Agriculture Wool Trust) Fund established in the Agricultural Act of 2014 (Farm Bill). The Agriculture Pima Trust provides annually for one payment, called the Pima Cotton Payments. The Agriculture Wool Trust provides annually for four payments. The first payment under the Agriculture Wool Trust is currently administered by the Department of Commerce's Office of Textiles and Apparel (OTEXA), and is called the Grants to Manufacturers of Certain Worsted Wool Fabrics. This program is being transferred from OTEXA to the Secretary of Agriculture (Secretary), who will administer the payment for the 2015-2019 calendar years, and will be called Payments to Manufacturers of Certain Worsted Wool Fabrics. The second payment is called Monetization of the Wool TRQ. The Farm Bill requires the Secretary to determine a monetary amount equivalent to what a person would have saved if OTEXA's Wool Tariff Rate Quota program (Wool TRQ) were still in effect. This payment will be based on OTEXA's Wool Tariff Rate Quota program,

which terminated at the end of calendar year 2014. The Monetization of the Wool TRQ will be administered by the Secretary for the 2015-2019 calendar years. The third payment is called the Wool Yarn, Wool Fiber, and Wool Top Duty Compensation Payment. Payments are made to processors of wool yarn, wool fiber, and wool top to compensate them for termination of the suspension of import duties on such wool. This payment will be administered by the Secretary for the 2015-2019 calendar years. The fourth payment is called the Refund of Duties Paid on Imports of Certain Wool Products. This program is currently administered by the Department of Homeland Security's Customs and Border Protection (CBP) through calendar year 2015. The program will be transferred in calendar year 2016 to the Secretary, who will administer the program for the 2016-2019 calendar years. Regulations for the fourth payment will be published at a later date.

**DATES:** This final rule is effective [**INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER**]. Comments concerning this final rule must be received by [**INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**], to be assured consideration. We are issuing this final rule without prior notice and opportunity for comment

**ADDRESSES:** The Foreign Agricultural Service (FAS), USDA, invites interested persons to submit comments on this final rule. Comments may be submitted by one of the following methods:

- Federal e-Rulemaking Portal: Go to <http://www.regulations.gov>. Preferred method; follow the on-line instructions for submitting comments on the final rule.
- E-mail: Comments can also be addressed to Mr. Benjamin Chan at [pimawool@fas.usda.gov](mailto:pimawool@fas.usda.gov).

All comments submitted in response to this rule will be included in the record and will be made available to the public. FAS will make the comments publicly available online at:

<http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Benjamin Chan, Import Policies and Export Reporting Division, Office of Trade Policy, Foreign Agricultural Service, U.S. Department of Agriculture; e-mail: [pimawool@fas.usda.gov](mailto:pimawool@fas.usda.gov); [202-720-8877](tel:202-720-8877).

**SUPPLEMENTARY INFORMATION:**

**Background**

Purpose of the Regulatory Action

This rule sets forth regulations regarding the implementation of the Pima Agriculture Cotton Trust Fund and the Agriculture Wool Apparel Manufacturers Trust Fund.

**Subpart A. Pima Agriculture Cotton Trust Fund (Agriculture Pima Trust).**

The Agriculture Pima Trust was established in section 12314 of the Farm Bill. The Agriculture Pima Trust is a funding mechanism for pima cotton payments.

(1) Pima Cotton Payments.

The Secretary is required in section 12314 of the Farm Bill to establish an annual payment for domestic users of pima cotton, pima cotton yarn spinners, and pima cotton trade associations.

The Foreign Agricultural Service (FAS) has been delegated the authority to administer this payment and to issue regulations to carry it out for calendar years 2014-2018. There was insufficient time to publish regulations for the 2014 payment and a notice was published in the Federal Register at 72 FR 29363 on May 2, 2014. Subpart A is applicable to annual payments in the 2015-2018 calendar years.

The purpose of the annual payment is to provide monetary relief to certain persons in the U.S. that have incurred economic injury through the importation of pima cotton and have incurred tariffs on pima cotton fabric that are higher than tariffs on certain imported apparel articles made of pima cotton fabric. The first Pima Cotton Trust Fund was established under the Tax Relief and Health Care Act of 2006 and administered by the Customs and Border Protection Agency of the Department of Homeland Security (CBP) in 2007 and 2008. Section 12314 of the Farm Bill authorized the Agriculture Pima Trust and pima cotton payment for the 2014-2018 calendar years. The Farm Bill authorizes \$16 million from the Commodity Credit Corporation (CCC) for each calendar year to fund annual payments.

Section 12314 requires that a specific percentage of annual funding be distributed to certain sectors of the domestic pima cotton apparel industry. Twenty-five percent is to be paid to one or more nationally recognized associations established for the promotion of pima cotton for use in textile and apparel goods.

Twenty-five percent is to be paid to domestic yarn spinners of pima cotton that, during the calendar year immediately preceding the payment and during calendar year 2013, produced ring spun cotton yarns in the United States measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form. A payment to a yarn spinner is based on the ratio of the yarn spinner's 2013 production to the total production of all domestic yarn spinners in 2013 who qualify for a payment.

The remaining fifty percent is to be paid to manufacturers that during both the calendar year immediately preceding the payment and during the 2013 calendar year used imported pima cotton fabric (80s or higher count and 2-ply in warp) to manufacture men's and boys' woven pima cotton shirts. A payment to a manufacturer is based on the ratio of the dollar value

(excluding duty, shipping, and insurance) of the manufacturer's 2013 production of men's and boys' woven pima cotton shirts to the dollar value (excluding duty, shipping, and insurance) of the total production in 2013 of all men's and boys' woven pima cotton shirts by manufacturers who qualify for a payment. The Farm Bill explicitly requires exclusion of "duty, shipping, and related costs" from the reported dollar value of imported woven cotton shirting fabric. Of the costs "related" to shipping that are separate from the freight cost itself, insurance is generally the largest. As payments to manufacturers are based on a production ratio incorporating the intrinsic dollar value of the imported fabric, excluding "duty, shipping, and related costs" in both parts of the ratio, to limit "related costs" to insurance gives effect to the purpose of the statute and affords simplicity of calculation.

To apply for a payment, claimants are required to submit an affidavit by March 15 of the calendar year of the application for a payment. Payments will be made not later than April 14.

Persons applying for a payment must provide information required by the Secretary through annual affidavits.

#### **Subpart B. Agriculture Wool Apparel Manufacturers Trust Fund (Agriculture Wool Trust).**

The Agriculture Wool Trust was established in section 12315 of the Farm Bill. The Agriculture Wool Trust is a funding mechanism for four payments: (1) Payments to Manufacturers of Certain Worsted Wool Fabrics; (2) Monetization of the Wool Tariff Rate Quota; (3) Wool Yarn, Wool Fiber, and Wool Top Duty Compensation Payment; and (4) Refund of Duties Paid on Imports of Certain Wool Products.

##### (1) Payments to Manufacturers of Certain Worsted Wool Fabrics.

OTEXA has administered the Grants to Manufacturers of Certain Worsted Wool Fabrics program through calendar 2014. Section 4002(c)(6) of the Miscellaneous Trade and Technical Corrections Act of 2004, as amended, authorizes OTEXA to administer this payment through 2014. Section 12315(b)(1) of the Farm Bill directed the Secretary to continue to administer this payment for the 2015-2019 calendar years. The title is changed to “Payments to Manufacturers of Certain Worsted Wool Fabrics” to avoid confusion with competitive grant programs also administered by the Secretary.

The purpose of this payment is to provide financial assistance to persons in the U.S. that manufactured worsted wool fabrics during 1999, 2000, and 2001. Section 12315 of the Farm Bill authorizes the Secretary to continue to make these payments to the same persons that, during the calendar year immediately preceding the payment and during calendar years 1999, 2000, and 2001, were manufacturers of at least one of two kinds of worsted wool fabrics: 1) subheading 9902.51.11 of the Harmonized Tariff Schedule of the United States (HTS) containing 85 percent or more by weight of wool, with average fiber diameters greater than 18.5 microns; and 2) subheading 9902.51.15 of the HTS containing 85 percent or more by weight of wool, with average fiber diameters of 18.5 microns or less.

All references to subheadings of the HTS in the context of this payment are to the subheadings as described in the HTS in 2014.

As specified by the Miscellaneous Trade and Technical Corrections Act of 2004, an amount of \$2.666 million is available each year for each HTS subheading of wool fabric, to be divided between persons based on the percentage of each person’s total actual manufacturing of that type of worsted wool fabric during each of calendar years 1999, 2000, and 2001 in relation

to the total manufacturing of such fabric by all persons who qualified for payments in those years.

Persons applying for a payment must provide information required by the Secretary through annual affidavits.

(2) Monetization of the Wool Tariff Rate Quota (TRQ).

The Wool TRQ was established in Title V of the Trade and Development Act of 2000, and provided for temporary duty reductions – i.e., lower duty rates – on limited quantities of two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers for men and boys. The TRQ has been administered since 2004 by OTEXA, and the authority for the TRQ expired on December 31, 2014.

This worsted wool fabric is of the kind described in subheading 9902.51.11 of the HTS with average fiber diameters greater than 18.5 microns, and subheading 9902.51.15 of the HTS with average fiber diameters of 18.5 microns or less. A third worsted wool fabric HTS subheading was added to the TRQ by the Miscellaneous Trade Act of 2004, subheading 9902.51.16 of the HTS, with average fiber diameters of 18.5 microns or less.

All references to subheadings of the HTS in the context of this payment are to the subheadings as described in the 2014 HTS. The subheading references are to a past HTS because these subheadings have expired and have been subsumed under other HTS headings in 2015. Congress also used these now expired HTS subheadings in the Farm Bill, further necessitating their use here. The term “duty paid” means the dollar amount of the duty actually paid by an importer in the calendar year immediately preceding the payment. In other words, duty paid equals the applicable duty rate multiplied by the quantity of worsted wool fabric imported. The term “lower duty rate” means the rate of duty that would have been applied under

the 2014 HTS because of the duty reduction percentage required by the Wool TRQ that ended on December 31, 2014.

On February 7, 2014, Congress created in section 12315(e) of the Farm Bill a new payment that “monetizes” OTEXA’s Wool TRQ. Because the lower duty rate is no longer available to importers after December 31, 2014, when authority for the TRQ expired, Congress decided to monetarily compensate importers of worsted wool fabric of the kind covered by the three HTS subheadings for the additional cost of the increased tariff. Congress accomplished this in section 12315(e) by requiring that in the event that the Wool TRQ administered by OTEXA should expire during the administration of the Agriculture Wool Trust by the Secretary (through 2019), the Secretary shall determine an amount “... that is equal to the amount the manufacturer or successor-in-interest would have saved during the calendar year of the payment if the suspension [or reduction] of duty on wool fabrics were in effect.” The Secretary has delegated this function to FAS at 7 CFR 2.43.

Section 12315(e) provides that only the person (or a successor-in-interest to the person) that imported worsted wool fabric involving one or more of the three HTS subheadings covered by this payment is eligible for the payment. To be eligible for a payment, the person must also have used the imported worsted wool fabric to produce in the U.S. suits, suit-type jackets, or trousers for men and boys (or, in the case of imported wool of the kind described in HTS subheading 9902.51.16, must have manufactured the wool fabric) during the calendar year immediately preceding the payment.

The worsted wool fabric covered by the three HTS subheadings under this payment are either imported directly by persons (i.e., importing manufacturer), in which case the person directly purchased the imported worsted wool fabric and paid the duty, or imported indirectly



(i.e., non-importing manufacturer) through a third party broker that had directly paid the duty.

The payment applies to persons that either directly or indirectly imported worsted wool fabric.

The calendar year immediately preceding the payment is the time period that will be used to establish the basis for calculating a payment. This historical basis applies to the duty paid and to the production or processing by the person applying for a payment. The duty paid arises from application of the duty rate applicable to imports of one or more of the three worsted wool fabrics of the kind described in the three subheadings covered by the payment. To be eligible for a payment, during the calendar year immediately preceding the payment a person must have imported, directly or indirectly, one or more of these HTS subheadings of worsted wool fabric, and used such worsted wool fabric in the U.S. to make men's and boy's suits, suit-type jackets, or trousers (or, in the case of subheading 9902.51.16, manufactured such worsted wool fabric).

Section 12315(e) of the Farm Bill anticipates a time when the TRQ's lower duty rate is no longer in effect, acknowledges that duty rates will have increased upon expiration of the TRQ, and focuses on the savings that an importer (direct or indirect) of worsted wool fabric would have realized had the lower duty rate remained in effect. Section 12315(e) states that the savings is "...an amount ...equal to the amount the manufacturer or successor-in-interest would have saved during the calendar year...if the suspension [or reduction] of duty on wool fabrics were in effect." The focus of the savings is on the difference between the duty paid for the worsted wool fabric in the calendar year immediately preceding the payment, and the duty that would have been paid on the same quantity of worsted wool fabric if the lower duty rate had applied. This allows the payment to address the "savings" contemplated in 12315(e) of the Farm Bill as close to the real time experience of the person as is administratively possible. For example, a person's import of worsted wool fabric in calendar year 2016 will be the basis for

calculating the person's payment in 2017. This is consistent with the statute's focus on the savings that would have been realized if a TRQ were still in effect, and is also consistent with OTEXA previously basing a TRQ allocation on a period of time immediately prior to the allocation.

The payment will be made to eligible persons by April 15 of the calendar year subsequent to the year of the person's reported wool fabric imports. This allows the Secretary to base the payment on the person's total actual imports of wool fabric during the calendar year immediately preceding the payment.

The savings involves three factors spread over two time periods: 1) the duty paid at the higher duty rate applicable to the worsted wool fabric described in the applicable 2014 HTS subheadings in the calendar year immediately preceding the payment; 2) the production or further processing of the imported worsted wool fabric in the calendar year immediately preceding the payment; and 3) the duty paid at the lower duty rate applicable to that HTS subheading of worsted wool fabric in 2014, the last year the TRQ was effective. The higher value of duty paid in the calendar year immediately preceding the payment is used to calculate the 2016-2019 payments. However, for the 2015 payment, the higher duty rate in the 2015 HTS will be used instead of the duty rate applicable in the calendar year immediately preceding the payment, which would be 2014. The reason for this exception for the 2015 payment is that 2014 is both the last year in which the TRQ's lower duty rate was still in effect, and is also the calendar year immediately preceding the payment (2015). As a result, for the 2015 payment, a proxy is necessary to serve as the higher duty rate in the calendar year immediately preceding the payment. It is necessary to create such a proxy and generate a 2015 payment, because the statute requires that this payment be made in any year in which the wool TRQ is not in effect. The first

year the TRQ is not in effect is calendar year 2015. Notwithstanding this proxy for the higher duty rate for a 2015 payment, the calendar year immediately preceding the payment (2014) will still be used to establish that production or processing by the eligible person occurred (which is an eligibility requirement).

There were three essential data components of the wool TRQ that terminated at the end of the 2014 calendar year: 1) the quantity of imported wool fabric subject to the lower duty rate; 2) the price of the imported wool fabric; and 3) the person's actual production of worsted wool suits, suit-type jackets, or trousers for men and boys (or, in the case of wool under HTS subheading 9902.51.16, manufactured the wool fabric). This information has been annually collected by OTEXA by means of affidavits supplied by persons applying for a payment. The Secretary will continue to collect this information through annual affidavits to ensure that the person, during the calendar year immediately preceding the payment, 1) imported, either directly or indirectly, the quantity of worsted wool fabric of the kind described under one or more of the HTS subheadings covered by this payment, and 2) produced in the U.S. suits, suit-type jackets, or trousers for men and boys (or, in the case of wool under HTS subheading 9902.51.16, manufactured the wool fabric).

The dollar value and quantity of such imports are also factors in determining the savings that would have been realized because of the TRQ. Dollar value data effectively captures the price of such fabric and the dollar amount paid by the person. OTEXA has collected data about the dollar value and quantity of such imports by requiring the person to report the dollar value and quantity of the imports during the first six months of the calendar year of the license allocation. The Secretary will continue to collect the person's reported dollar value and quantity of imports of worsted wool fabric, but will require information about imports for the entire

calendar year immediately preceding the payment. The savings in the context of the payment can be restated accordingly. In any calendar year in which the lower duty rate on worsted wool fabric of the kind described in subheadings 9902.51.11, 9902.51.15, and 9902.51.16 of the 2014 HTS is not in effect, a person (or a successor-in-interest of the person) that, during the calendar year immediately preceding the payment, in the U.S., 1) directly or indirectly imported worsted wool fabric of the kind described under one or more of the three HTS subheadings covered by this payment, and 2) used the worsted wool fabric to produce suits, suit-type jackets, or trousers for men and boys (or, in the case of worsted wool fabric covered by subheading 9902.51.16, manufactured the worsted wool fabric), is eligible for a payment that is equivalent to the difference between the higher duty paid on such worsted wool fabric in the calendar year immediately preceding the payment and the reduced duty that would have been payable under the TRQ (in 2014) on the quantity of worsted wool fabric imported in the calendar year immediately preceding the payment. For the purpose of calculating the payment for each of the 2015-2019 calendar years, it will be assumed that 100% of the person's imports were covered by the lower duty. The rationale for this assumption is that under the wool TRQ that expired on December 31, 2014, persons that received licenses to import up to specific amounts of worsted wool fabric at reduced duty rates never used the entire license allotment, and the excess allotment was left unused. In those cases, because 100% of the person's imports were in fact covered by the available lower duty rate under the TRQ, the savings referenced in section 12315(e) should also apply to 100% of a person's imports.

The duty rate codified in the 2014 HTS applicable to imports of worsted wool fabric in the calendar year immediately preceding the payment fall into one of three categories: 1) the general duty rate that is applicable to worsted wool fabric covered by the subheading unless one

of the other two categories applies; 2) the duty rate is 0%, because imports from certain listed countries are duty free; and 3) duty rates applicable to imports from specific countries (e.g., 7.5% duty rate for imports of worsted wool fabric under subheading 9902.51.11 of the HTS from Oman in 2015). Because the HTS is statutory, one of the three categories must be applied when calculating a monetary payment. Similarly, in years following 2014, the applicable duty may vary as a function of the country of origin of the imported fabric. In any given year, the country of origin of the worsted wool fabric will affect the applicable duty rate and resulting duty paid used to calculate the payment. The duty rate applicable to worsted wool fabric under subheadings 9902.51.15 and 9902.51.16 of the 2014 HTS was 0%, and for subheading 9902.51.11 of the 2014 HTS was 10%. Thus, in any given year, duty rates may vary based on the country of origin of the imported fabrics, and as a result, the amount of the payment may be significantly affected.

The payment will be annually calculated for each of the 2015-2019 calendar years as follows. For each HTS subheading, the savings of the person for any given calendar year will be the difference between the higher duties paid in the calendar year preceding the payment and the duties that would have been payable at the lower 2014 duty rate. The savings for each of the three subheadings will then be added together, the sum of which will equal the annual payment for that person.

Two simple examples, the first involving imports in 2017 and the other in 2015, illustrate how this calculation will work.

The first example applies to a payment in 2017. Under the TRQ that expired on December 31, 2014, worsted wool fabrics entering the United States under HTS subheadings 9902.51.15 and 9902.51.16 were assessed zero duty, and worsted wool fabrics from Oman

entering under 9902.51.11 were assessed a 10% duty. Starting on January 1, 2017, assume that imports entering the United States of worsted wool fabrics previously described under HTS subheadings 9902.51.15 and 9902.51.16 (but in 2017 actually entering under a different HTS subheading, because of the expiration of the particular subheadings under HTS chapter 99) are assessed a 20% duty, and worsted wool fabrics from Oman previously described under 9902.51.11 are assessed a 10% duty.

A person imports 200 square meters of worsted wool fabric in 2017, 100 square meters of which is of the kind described by HTS subheadings 9902.51.15 and 9902.51.16, and the remaining 100 square meters is of the kind described in HTS subheading 9902.51.11, imported from Oman. The person reports a dollar value of \$1 per square meter. For the 100 square meters of worsted wool described under HTS subheadings 9902.51.15 and 9902.51.16, the calculation would be 0.20 (20% converted to a numeric value), which is the duty rate in 2016, minus 0 (2014 duty rate, 0%, converted to a numeric value), multiplied by 100 (dollar value), which would equal \$20  $((0.20-0)\times 100)$ . For the 100 square meters of worsted wool fabric described under HTS subheading 9902.51.11 and imported from Oman, the calculation would be 0.10 (10% converted to a numeric value), the duty rate in 2015, the calendar year immediately preceding the payment, minus 0.10 (10%, the 2016 duty rate when Oman is the country of origin) multiplied by 100 (dollar value), which would equal \$0  $((0.10-0.10)\times 100)$ .

The second example applies to a payment in 2015 using the “2015 proxy” discussed above. Recall that under the applicable TRQ that expired on December 31, 2014, worsted wool fabrics entering the United States under HTS subheadings 9902.51.15 and 9902.51.16 were assessed zero duty, and worsted wool fabrics from Oman entering under 9902.51.11 were assessed a 10% duty. Starting on January 1, 2015, imports entering the United States of worsted

wool fabrics previously described under HTS subheadings 9902.51.15 and 9902.51.16 are assessed a 25% duty, and imports of worsted wool fabrics from Oman previously described under 9902.51.11 are assessed a 20% duty.

A person imports 200 square meters of worsted wool fabric in 2015, 100 square meters of which is of the kind previously described by HTS subheadings 9902.51.15 and 9902.51.16, and the remaining 100 square meters is of the kind previously described in HTS subheading 9902.51.11 imported from Oman. The person reports a dollar value of \$1 per square meter. For the 100 square meters of worsted wool under HTS subheadings 9902.51.15 and 9902.51.16, the calculation would be 0.25 (25% converted to a numeric value), which is the 2015 higher duty proxy used when the calendar year immediately preceding the payment is 2014, minus 0 (2014 duty rate, 0%, converted to a numeric value), multiplied by 100 (dollar value), which would equal \$25  $((0.25-0)\times 100)$ . For the 100 square meters of worsted wool fabric under HTS subheading 9902.51.11 imported from Oman, the calculation would be 0.20 (20% converted to a numeric value), the 2015 higher duty proxy when the calendar year immediately preceding the payment is 2014, minus 0.10 (10%, the 2014 duty rate when Oman is the country of origin) multiplied by 100 (dollar value), which would equal \$10  $((0.20-0.10)\times 100)$ . The statutory language of section 12315 directs the Secretary to determine the savings that the person would have realized if the lower duty rate had been in effect. Thus, it is not necessary to determine what the person would have done with the savings realized from the lower duty rate. Nor is it necessary to inquire about the person's imports in a year that also include imported worsted wool fabric that is of the kind under HTS subheadings other than those covered by this payment, imported worsted wool fabric not subject to the duty reduction, or domestic wool.

As discussed earlier, the payment applies to direct and indirect imports of worsted wool fabric of the kind described in the three specific HTS subheadings. If the import was through a third party broker, the person must so state in the affidavit prior to the payment, and provide any other information required by FAS. For persons that are indirect importers of worsted wool fabric, the dollar value of the imports reported in their affidavit will be subject to a 10% reduction by the Secretary. The reason for this reduction is that the broker that directly imported the worsted wool fabric is assumed to sell it to the person who submits the affidavit for an amount higher than the tariff price. The 10% reduction is intended to compensate for that higher price, and make the reported price paid by indirect importers more equivalent to the price paid by direct importers. OTEXA also administered this 10% reduction in the reported price paid by indirect importers as part of its administration of the wool TRQ.

Persons that imported worsted wool fabric directly are required to submit to FAS as part of the affidavit package scanned copies of the CBP Form 7501 “Entry Summary” for the relevant calculations made in the affidavit. Persons that imported worsted wool fabric indirectly are required to submit to FAS as part of the affidavit package invoices from third party brokers for the relevant calculations made in the affidavit.

Persons applying for a payment must provide information required by the Secretary through annual affidavits.

### (3) Wool Yarn, Wool Fiber, and Wool Top Duty Compensation Payment.

All references to subheadings of the HTS in the context of this payment are to the subheadings as described in the 2014 HTS.

The duty on imported wool yarn of the kind described in subheading 9902.51.13 of the HTS, and the duty on wool fiber and wool top of the kind described in subheading 9902.51.14 of



the HTS were suspended in their entirety in section 503 of the Trade and Development Act of 2000. The total duty suspension for both subheadings has been extended three times since then, most recently through December 31, 2014. Section 12315(e) of the Farm Bill requires the Secretary to make payments to processors of wool yarn, fiber, and top of the kind described in subheadings 9902.51.13 and 9902.51.14 of the HTS, respectively, in amounts that the processors would have saved if the duty suspension had been in effect.

To be eligible for a payment, during the calendar year immediately preceding the payment a person must have imported into the U.S., directly or indirectly, wool yarn, fiber or top of the kind described in subheadings 9902.51.13 and 9902.51.14, and manufactured such wool yarn, fiber, or top in the U.S

The duty rates in chapter 99 of the HTS for subheadings 9902.51.13 and 9902.51.14 are listed in three categories: 1) the general duty rate applicable to wool yarn covered by the subheading, unless one of the other two categories applies; 2) the duty rate is 0 because imports from certain listed countries are duty free; and 3) duty rates applicable to imports from specific countries (e.g., 2.4% duty rate for imports of wool yarn from Oman in calendar year 2014). Because the HTS is statutory, one of the three categories must be applied when calculating a monetary payment equivalent to the savings that a person would have realized if the suspension of the duty rate had been in effect. Thus, the country of origin of the wool yarn, wool fiber, or wool top, may significantly affect the duty rate used to calculate a person's payment. The general duty rate applicable to subheading 9902.51.13 in 2000 was 6% of the import price of the imported wool yarn at the time the duties were suspended. The general duty rate reverted to 6% of the import price of the imported wool yarn in 2015.

However, subheading 9902.51.14, which expired at the end of 2014, applied to wool fiber and top now described in eight subheadings of chapter 51 of the HTS, and the duty applicable to each subheading in chapter 51 varies. Thus, a determination of the applicable duty is subject to the determination of the Secretary in accordance with duty rates applicable to the specific subheading of wool fiber or top imported.

The difference between the 0% duty in effect during the duty suspension and the duty applicable in the calendar year immediately preceding the payment for the two HTS subheadings of wool yarn, fiber, and top (which is 100% of the duty) will be used to calculate duty compensation payments. Section 12315(e) of the Farm Bill anticipates a time when the total duty suspension is no longer in effect, acknowledges that duty rates will have increased upon expiration of the total duty suspension, and focuses on the savings that an importer (direct or indirect) of wool yarn, fiber, or top would have realized had the 0% duty rate remained in effect. Section 12315(e) of the Farm Bill states that the annual payment is “... an amount... equal to the amount the manufacturer or successor-in-interest would have saved during the calendar year... if the suspension... of duty on wool fabrics were in effect.” The focus of the savings is on the difference between the duty paid for the wool yarn, fiber or top of the kind described in subheadings 9902.51.13 and 9902.51.14 in the calendar year immediately preceding the payment, and the 0% duty that would have been paid for such wool imported into the U.S., directly or indirectly, if the total duty suspension were still in effect. This allows the payment to address the “savings” contemplated in 12315(e) of the Farm Bill as close to the real time experience of the person as is administratively possible. For example, a person’s import of wool yarn, fiber or top in calendar year 2016 will be the basis for calculating the person’s payment in 2017. This is consistent with the statute’s focus on the savings that would have been realized if a

duty suspension were still in effect, and is also consistent with CBP's treatment of wool yarn, fiber or top in its Wool Duty Refund Program, in which it based the Duty Refund payment on the prior year. The payment will be made to eligible persons by April 15 of the calendar year subsequent to the year of the person's reported imports. This allows the Secretary to base the payment on the person's total actual imports of wool yarn, fiber or top during the calendar year immediately preceding the payment.

The savings involves three factors spread over two time periods: 1) the higher duty rate applicable to the wool yarn, fiber or top described in the applicable 2014 HTS subheadings in the calendar year immediately preceding the payment; 2) the further processing of the imported wool yarn, fiber or top in the calendar year immediately preceding the payment; and 3) the total duty suspension applicable to that HTS subheading of wool yarn, fiber or top in 2014, the last year the duty suspension was effective. The higher duty rate paid by the eligible person in the calendar year immediately preceding the payment is used to calculate the 2016-2019 payments. However, for the 2015 payment, the higher duty rate in the 2015 HTS will be used instead of the total duty suspension effective through the 2014 calendar year. The reason for this exception for the 2015 payment is that 2014 is both the last year in which the total duty suspension was still in effect and the calendar year immediately preceding the payment (in 2015). As a result, for the 2015 payment, a proxy is necessary for the higher duty rate. It is necessary to create this proxy for the 2015 payment because Congress requires that this payment be made when the duty suspension is no longer in effect. The first year the duty suspension is not in effect is calendar year 2015. Finally, for a 2015 payment, the calendar year immediately preceding the payment will still be used to establish the dollar value of the imported wool yarn, fiber, or top by the eligible person.

The dollar value of the wool yarn, fiber or top imported into the U.S. is also a factor in determining the savings that would have been realized because of the TRQ. Dollar value data effectively captures the price of such fabric and the dollar amount paid by the person. CBP has not been collecting this data in the context of its Wool Duty Refund Program. But in light of the statutory requirement to capture the savings that would have been realized for wool yarn, fiber or top imported into the U.S had the duty suspension been in effect, the Secretary will collect the person's reported dollar value and quantity of imports of wool yarn, fiber or top imported into the U.S during the entire calendar year immediately preceding the payment.

The Secretary has determined that the intent of the savings language in section 12315 of the Farm Bill can be best realized by looking at what the person would have saved during the calendar year immediately preceding the payment. For example, the dollar value of the person's imports wool yarn, fiber, or top in calendar year 2014 will be the basis for calculating the payment in 2015 (in contrast to the proxy duty used for the 2015 payment). This allows the payment to address the "savings" in section 12315(e) of the Farm Bill as close to the real time experience of the person as is administratively possible yet still cover the full prior year's imports.

Other than with respect to the 2015 payment calculated using a proxy duty rate as described above, the duty compensation payment under this section will be equal to 100% of the duty paid for wool yarn, fiber, or top of the kind described in subheadings 9902.51.13 and 9902.51.14 imported in the calendar year immediately preceding the payment.

The two HTS subheadings of imported wool yarn, fiber, or top covered by this payment are either imported directly by persons, in which case the person also directly paid the duty, or imported indirectly through a third party broker that directly paid the duty. The payment applies

to persons that either directly or indirectly imported wool yarn, fiber, and top. If the import was through a third party broker, the person must so state in the affidavit prior to the payment, and provide any other information required by FAS. For persons that are indirect importers of wool yarn, fiber, or top, the dollar value of the imports reported in their affidavit will be subject to a 10% reduction by the Secretary. The reason for this reduction is that the broker that directly imported the wool yarn, fiber, or top is assumed to sell it to the person who submits the affidavit for an amount higher than the price merely increased by the applied duty. The 10% reduction is intended to compensate for that higher price, and make the reported price paid by indirect importers more equivalent to the price paid by direct importers. CBP also administers this 10% reduction in the reported price paid by indirect importers as part of its administration of the Wool Duty Refund Program (which includes subheadings 9902.51.13 and 9902.51.14).

Persons that imported wool yarn, fiber or top directly are also required to submit to FAS as part of the affidavit package scanned copies of the CBP Form 7501 “Entry Summary” for the relevant calculations made in the affidavit. Persons that imported wool yarn, fiber or top indirectly are required to submit to FAS as part of the affidavit package invoices from third party brokers for the relevant calculations made in the affidavit.

Persons applying for a payment must provide information required by the Secretary through annual affidavits.

#### (4) Refund of Duties Paid on Imports of Certain Wool Products.

CBP is administering this payment to U.S. manufacturers and processors of wool for duties paid on the imported wool in 2000, 2001, and 2002 through calendar year 2015. FAS will continue this payment for calendar years 2016-2019, and will publish regulations later next year. The regulations for this payment will be published at 7 CFR 1471.12.

### **Effective Date and Notice and Comment**

We are issuing this final rule without prior notice and opportunity for comment. The Administrative Procedure Act exempts rules “relating to agency management or personnel or to public property, loans, grants, benefits, or contracts” from the statutory requirement for prior notice and opportunity for comment 5 U.S.C. 553(a)(2). Accordingly, this rule may be made effective less than 30 days after publication in the *Federal Register*. However, we invite you to participate in this rulemaking by submitting written comments, data, or views. We will consider the comments we receive and may conduct additional rulemaking based on the comments. This rule allows FAS to provide adequate notice to eligible manufacturers about the new Pima Agriculture Cotton and Wool Apparel Manufacturers Trusts regulation so that they will be ready to begin filing for payments by March 15 in the case of Agriculture Pima Trust payment, and by March 1 in the case of the several Agriculture Wool Trust payments.

### **Executive Order 12630**

This Executive Order requires careful evaluation of governmental actions that interfere with constitutionally protected property rights. This rule does not interfere with any property rights and, therefore, does not need to be evaluated on the basis of the criteria outlined in Executive Order 12630.

### **Executive Order 12866**

This final rule is issued in conformance with Executive Order 12866 and Administrative Procedure Act (5 U.S.C. 553). It has been determined to be not significant for the purposes of Executive Order 12866 and was not reviewed by OMB for this purpose. A cost-benefit assessment of this rule was not completed.

### **Executive Order 12372**

This final rule is not subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### **Executive Order 12988**

This final rule has been reviewed in accordance with Executive Order 12988. This rule would not preempt State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule. This rule would not be retroactive.

#### **Executive Order 13132**

This final rule has been reviewed under Executive Order 13132, “Federalism.” The policies contained in this final rule do not have any substantial direct effect on States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government, nor does this final rule impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

#### **Executive Order 13175**

This final rule has been reviewed for compliance with E.O. 13175. The policies contained in this final rule do not have tribal implications that preempt tribal law.

#### **Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because FAS is not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### **Civil Rights Impact Statement**

No major civil rights impact is likely to result from the announcement of this notice. It will not have a negative civil rights impact on very-low income, low income, and moderate income and minority populations.

### **Environmental Assessment**

The environmental impacts of this rule have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and FAS regulations for compliance with NEPA (7 CFR part 799). FAS has determined that NEPA does not apply to this rule and that no environmental assessment or environmental impact statement will be prepared.

### **Unfunded Mandates Reform Act**

This final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA). Therefore, this rule is not subject to the requirements of sections 202 and 205 of UMRA.

### **E-Government Act Compliance**

FAS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information, services and for other purposes. The forms, regulations, and other information collection activities required to be utilized by a person subject to this rule are available at: <http://www.fas.usda.gov>.

### **List of Subjects in 7 CFR Part 1471**

Agricultural commodities, Imports.

For the reasons set forth in the preamble, 7 CFR Part 1471 is added to read as follows:



**PART 1471 —PIMA AGRICULTURE COTTON TRUST FUND (AGRICULTURE PIMA TRUST) AND AGRICULTURE WOOL APPAREL MANUFACTURERS TRUST FUND (AGRICULTURE WOOL TRUST)**

**Subpart A — Agriculture Pima Trust**

Sec.

1471.1 Provisions common to this subpart.

1471.2 Pima cotton payments.

1471.3 Affidavit of producers of ring spun pima cotton yarn.

1471.4 Affidavit of manufacturers of pima cotton shirts.

1471.5 Affidavit of pima cotton trade association.

**Subpart B — Agriculture Wool Trust**

1471.10 Provisions common to this subpart.

1471.11 Payments to manufacturers of certain worsted wool fabrics.

1471.12 [Reserved]

1471.13 Monetization of the wool tariff rate quota.

1471.14 Wool yarn, wool fiber, and wool top duty compensation payment.

**Authority:** Sections 501-506, Pub. L. 106-200, (114 Stat. 299-304);

Section 4002, Pub. L. 108-429 (7 U.S.C. 7101 note); Section 1633, Pub. L.109-280 (120 Stat.

1166); Section 325, Pub. L. 110-343 (122 Stat. 3875); Sections 12314 and 12315, Pub. L. 113-79

(7 U.S.C. 2101 note and 7101 note).

**Subpart A — Agriculture Pima Trust**

**§ 1471.1 Provisions common to this subpart.**

(a) Agriculture Pima Trust — (1) Establishment. The Agriculture Pima Trust has been established to provide funding for payments under this part.

(2) Purpose. The purpose of the Agriculture Pima Trust is to reduce the injury to domestic manufacturers resulting from tariffs on cotton fabric that are higher than tariffs on certain apparel articles made of cotton fabric.

(3) Funding availability. \$16,000,000 will be available annually for eligible payments authorized under subpart A of this part.

(4) Definitions. As used in this subpart:

*Agriculture Pima Trust* means the Pima Agriculture Cotton Trust Fund.

*CCC* means the Commodity Credit Corporation.

*FAS* means the Foreign Agricultural Service.

*Secretary* means the Secretary of Agriculture.

*Agriculture Pima Trust* means the Pima Agriculture Cotton Trust Fund.

*U.S.* means the United States of America.

(b) Other provisions common to subpart A of this part — (1) Affidavits. FAS shall annually, not later than February 15 of the year of the applicable payment, make affidavits available on the FAS website, which can be found at <http://www.fas.usda.gov/>. Affidavits must be submitted electronically to [pimawool@fas.usda.gov](mailto:pimawool@fas.usda.gov).

(2) Filing deadline. Any person filing an affidavit under this part for a particular year must file the affidavit for such calendar year, during calendar years 2015 through 2018, not later than March 15 of the applicable calendar year.

(3) Basic information. In addition to information required in §§ 1471.3, 1471.4, and 1471.5, as applicable, every person applying for a payment must provide the following information, applicable to the year for which a payment is sought:

- (i) The current company name, address, contact, phone number of the person;
- (ii) The name and address of each plant or location of the person during the calendar year immediately preceding the payment; and
- (iii) A W-9 providing the Federal tax identification number of the person;

(4) Standard Form 1199A . Every person claiming a payment must provide Standard Form 1199A, a direct deposit sign-up form, to facilitate any transfer of funds.

(5) Affirmation. Every person applying for a payment must affirm in its affidavit that “all information contained in the application is complete and correct and that the information does not contain a false claim, statement, or representation.”

(6) Document retention. All persons receiving a payment under this part must maintain all pertinent documentation for 3 years after the year of receipt of the payment.

(7) False statements. Persons providing false or fraudulent claims, or persons making materially false statements or representations in their affidavit, are subject to civil or criminal penalties pursuant to 18 U.S.C. 1001.

(8) Confidentiality. Specific business information that is marked “business confidential” will be protected from disclosure to the full extent permitted by law.

(9) Review of affidavits. Affidavits will be reviewed to determine whether they are complete and responsive to the content and form of affidavit requirements under this part.

(10) Finality of determinations by Secretary. A determination by the Secretary about a payment under this part shall be final and is not subject to appeal or protest.

(11) Timing of payments. A payment for which a person is eligible under this part will be disbursed in each of calendar years 2015 through 2018, not later than April 15 of the applicable year.

(12) Sequester. Payments covered by this part shall be subject to sequester of payments, if required by law.

**§ 1471.2 Pima cotton payments.**

From available funds in the Agriculture Pima Trust, CCC will annually make payments for each of calendar years 2015 through 2018 as follows:

(a) Twenty-five percent of the amounts in the Agriculture Pima Trust shall be paid to one or more nationally recognized associations established for the promotion of pima cotton for use in textile and apparel goods, as determined by the Secretary, during the calendar year immediately preceding the payment.

(b) Twenty-five percent of the amounts in the Agriculture Pima Trust shall be paid to yarn spinners of pima cotton that produce ring spun cotton yarns in the U.S. during 2013 and the calendar year immediately preceding the payment, to be allocated to each yarn spinner in an amount that bears the same ratio as

(1) The yarn spinner's production of ring spun cotton yarns in 2013, measuring less than 83.33 decitex (exceeding 120 metric number) from pima cotton in single and plied form during calendar year 2013, bears to

(2) The production of the yarns described in paragraph (b)(1) of this section during calendar year 2013 by all yarn spinners that qualify under this paragraph (b).

(c) Fifty percent of the amounts in the Agriculture Pima Trust shall be paid to manufacturers that, during the calendar year immediately preceding the payment, certify, pursuant to the

affidavit under § 1471.4, they used imported pima cotton fabric during calendar year 2013 to produce such shirts, to be allocated to each manufacturer in an amount that bears the same ratio as

(1) The dollar value (excluding duty, shipping, and insurance of imported woven pima cotton shirting fabric of 80s or higher count and 2-ply in warp used by the manufacturer during calendar year 2013 to produce men's and boys' pima cotton shirts, bears to

(2) The dollar value (excluding duty, shipping, and insurance of the fabric described in paragraph (c)(1) of this section used to manufacture men's and boy's pima cotton shirts in 2013 by all manufacturers that qualify under this paragraph (c).

**§ 1471.3 Affidavit of producers of ring spun pima cotton yarn.**

In addition to reporting and information requirements in § 1471.1, the affidavit of a yarn spinner that is a producer of ring spun cotton yarn must be an affidavit provided annually by an officer of the yarn spinner that produces ring spun yarns affirming that:

(a) During the calendar year immediately preceding the payment and during calendar year 2013, the yarn spinner used pima cotton to produce ring spun cotton yarns in the U.S. measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form;

(b) During 2013, the yarn spinner actually produced the quantity, measured in pounds, of ring spun cotton yarns measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form; and

(c) The yarn spinner continues to maintain supporting documentation about such production during calendar year 2013 which shows the actual quantity of such yarns produced, and evidencing the yarns as ring spun pima cotton yarns, measuring less than 83.33 decitex (exceeding 120 metric number), in single and plied form.

**§ 1471.4 Affidavit of manufacturers of pima cotton shirts.**

(a) In general. In addition to applicable information requirements in § 1471.1, an affidavit of a manufacturer that is a producer of men's and boys' pima cotton shirts must be an affidavit provided annually by an officer of the manufacturer which affirms the following information

(1) During the calendar year immediately preceding the payment and during calendar year 2013, the manufacturer used imported pima cotton fabric to cut and sew men's and boys' pima cotton shirts in the U.S.;

(2) During calendar year 2013, the dollar value of imported woven pima cotton shirting fabric of 80s or higher count and 2-ply in warp purchased and used by the manufacturer to cut and sew men's and boys' woven pima cotton shirts in the U.S.;

(3) The manufacturer continues to maintain invoices and other supporting documentation (such as price lists and other technical descriptions of the fabric qualities) showing the dollar value of such fabric purchased, the date of purchase, and evidencing the fabric as woven pima cotton fabric of 80s or higher count and 2-ply in warp; and

(4) The imported pima cotton fabric purchased in 2013 and in the calendar year immediately preceding the payment was suitable for use in the manufacturing of men's and boys' cotton shirts.

(b) Date of purchase. For purposes of the affidavit under paragraph (a) of this section, the date of purchase shall be the invoice date, and the dollar value shall be determined excluding duty, shipping, and insurance.

**§ 1471.5 Affidavit of pima cotton trade associations.**

In addition to applicable information requirements in § 1471.1, trade associations filing a claim for a payment must electronically provide a statement which states whether, during the calendar

year immediately preceding the payment and in calendar year 2014, they were, as determined by the Secretary, a domestic nationally recognized association established and operating for the promotion of pima cotton for domestic use in textile and apparel goods.

## **Subpart B — Agriculture Wool Trust**

### **§ 1471.10 Provisions common to this subpart.**

(a) Agriculture wool trust — (1) Establishment. The Agriculture Wool Trust has been established to provide funding for payments under this part.

(2) Purpose. The purpose of the Agriculture Wool Trust is to reduce the injury to domestic manufacturers resulting from tariffs on wool fabric that are higher than tariffs on certain apparel articles made of wool fabric.

(3) Funding availability. Not more than \$30,000,000 will be available annually for payments authorized under this part.

(4) Definitions. As used in this subpart:

*Agriculture Wool Trust* means the Agriculture Wool Apparel Manufacturers Trust Fund.

*U.S.* means the United States of America.

*CCC* means the Commodity Credit Corporation.

*FAS* means the Foreign Agricultural Service.

*HTS* means the Harmonized Tariff Schedule of the United States.

*Secretary* means the Secretary of Agriculture.

*TRQ* means Tariff Rate Quota.

(b) Provisions common to this part — (1) Affidavits. FAS shall annually, not later than February 15 of the year of the applicable payment, make affidavits available on the FAS

website, which can be found at <http://www.fas.usda.gov/>. Affidavits must be submitted electronically to: [pimawool@fas.usda.gov](mailto:pimawool@fas.usda.gov).

(2) Filing deadline. Any person filing an affidavit under this part for a particular year must file the affidavit for such calendar year, during calendar years 2015 through 2019, not later than March 1 of such year.

(3) Required information. In addition to information required in §§ 1471.11, 1471.13, and 1471.14, as applicable, every person applying for a payment under this part must provide the following information applicable to the year for which a payment is sought:

- (i) The current company name, address, contact, phone number of the person;
- (ii) The name and address of each plant or location of the person in the year immediately preceding the payment; and
- (iii) A W-9 providing the Federal tax identification number of the person.

(4) Standard Form 1199A. Every person seeking a payment must also provide Standard Form 1199A, a direct deposit sign-up form, to facilitate any transfer of funds.

(5) Affirmation. A person filing an affidavit under this part must affirm that “all information contained in the application is complete and correct and that the information does not contain a false claim, statement, or representation.”

(6) Document retention. All persons receiving a payment under this part must maintain all pertinent documentation for three years after the year of receipt of the payment.

(7) False statements. Persons providing false or fraudulent claims or making materially false statements or representations are subject to civil or criminal penalties pursuant to 18 U.S.C. 1001.



(8) Confidential information. Specific business information provided in affidavits that is marked “business confidential” will be protected from disclosure to the full extent permitted by law.

(9) Review of affidavits. Affidavits will be reviewed to determine whether they are complete and responsive to the content and form of affidavit requirements in this part.

(10) Finality of determination by the Secretary. A determination by the Secretary about a payment under this part shall be final and is not subject to appeal or protest.

(11) Timing of payments. A payment for which a person eligible under this part will be disbursed in each of calendar years 2015 through 2019 not later than April 15 of the applicable year.

(12) Proration and sequester. Payments covered by this part will be subject to proration in the event that insufficient funds exist in the Agriculture Wool Trust during the year of the payment, and will be subject to sequester, if required by law.

(13) HTS subheadings. All references to subheadings of the HTS in this part are to the subheadings as described in the HTS in 2014.

#### **§ 1471.11 Payments to manufacturers of certain worsted wool fabrics.**

(a) Definitions. In this section the following definitions apply:

Eligible person. The term “eligible person” means a manufacturer in the U.S. of qualifying worsted wool fabric during the calendar year immediately preceding the payment and during each of calendar years 1999, 2000, and 2001.

Qualifying worsted wool fabric. The term “qualifying worsted wool fabric” means a worsted wool fabric containing at least 85% by weight worsted wool of the kind described in subheading 9902.51.11 or 9902.51.15 of the 2014 HTS that, during the calendar year immediately preceding

the payment and during each of calendar years 1999, 2000, and 2001, was manufactured by an eligible person in the United States.

(b) Distribution of funds. From amounts in the Agriculture Wool Trust, CCC will annually make payments for each of calendar years 2015 through 2019 to eligible persons that manufactured qualifying worsted wool fabric as provided in paragraphs (b)(1) or (2) of this section.

(1) Payments for production under subheading 9902.51.11 of the HTS — (i) In general. Eligible persons that manufactured qualifying worsted wool fabric during calendar years 1999, 2000, and 2001 that is of the kind described in subheading 9902.51.11 of the HTS are eligible for a payment as provided in paragraph (b)(1)(ii) of this section.

(ii) Payment amounts. A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) for the calendar year immediately preceding the payment of qualifying worsted wool fabric described in paragraph (b)(1)(i) of this section in relation to the total production for the calendar year immediately preceding the payment of such fabric by all eligible persons who qualify for payments under this paragraph.

(2) Payments for production under subheading 9902.51.15 — (i) In general. Eligible persons that manufactured qualifying worsted wool fabric during calendar years 1999, 2000, and 2001 that conforms in composition to subheading 9902.51.15 of the HTS are eligible for a payment as provided in paragraph (b)(2)(ii) of this section.

(ii) Payment amounts. A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) for the

calendar year immediately preceding the payment of qualifying worsted wool fabric described in paragraph (b)(2)(i) of this section in relation to the total production for the calendar year immediately preceding the payment of such fabric by all eligible persons who qualify for payments under this paragraph.

(c) Annual affidavit — (1) In general. An eligible person applying for a payment under this section shall comply with all applicable reporting requirements of this section and of § 1471.10.

(2) Specific business information. An eligible person shall, for the calendar year immediately preceding the payment and for each of calendar years 1999, 2000, and 2001, annually report the actual dollar value and the actual quantity (linear yards) of qualifying worsted wool fabric that was manufactured.

(3) Manufacturing of wool. When reporting the annual dollar value and quantity of imports of qualifying worsted wool fabric, and the annual dollar value and quantity of the qualifying wool fabric that was manufactured, an eligible person may either have manufactured the qualifying worsted wool on its own behalf or had another person manufacture the qualifying worsted wool fabric, provided the eligible person owned the qualifying worsted wool fabric at the time of manufacture.

#### **§ 1471.12 [Reserved]**

#### **§ 1471.13 Monetization of the wool tariff rate quota.**

(a) Definitions. In this section the following definitions apply:

(1) Lower duty rate. The term “lower duty rate” means the duty rate as codified in the 2014 HTS that would have been applicable to qualifying worsted wool fabric of the kind described in subheadings 9902.51.11, 9902.51.15, and 9902.51.16 of the 2014 HTS prior to the expiration of the Wool TRQ on December 31, 2014.

(2) Eligible person — (i) In general. The term “eligible person” means a manufacturer (or a successor-in-interest to the manufacturer) in the U.S. during the calendar year immediately preceding the payment that:

(A) Imported qualifying worsted wool fabric; and

(B) Used the imported qualifying worsted wool fabric

(1) In the case of wool of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, to produce worsted wool suits, suit-type jackets and trousers for men and boys; or

(2) In the case of wool fabric of the kind described in subheading 9902.51.16 of the 2014 HTS, used such wool fabric in manufacturing.

(ii) Successor-in-interest. If a person satisfies the criteria for becoming a successor-in-interest to an eligible person under paragraph (a)(4) of this section, the person shall succeed to the status of the eligible person and become eligible for the payment.

(3) Qualifying worsted wool fabric. The term “qualifying worsted wool fabric” means imported worsted wool fabric containing at least 85% by weight worsted wool of the kind described in subheadings 9902.51.11, 9902.51.15, or 9902.51.16 of the 2014 HTS that, during the calendar year immediately preceding the payment was:

(i) Imported by an eligible person in the U.S.; and

(ii) Used by the eligible person in the U.S.

(A) In the case of wool fabric of the kind described in subheadings 9902.51.11 or 9902.51.15 of the HTS, to produce worsted wool suits, suit-type jackets and trousers for men and boys; or

(B) In the case of wool fabric of the kind described in subheading 9902.51.16 of the HTS, was used in manufacturing.

(4) Successor-in-interest. The term “successor-in-interest” means a person that is eligible to claim a payment under this section as if the person were the original eligible person, without regard to section 3727, title 31, United States Code because of-

(i) An assignment of the claim;

(ii) An assignment of the original eligible person’s right to manufacture under the same trade name; or

(iii) A reorganization of the eligible person.

(b) Purposes. The purposes of a TRQ monetization payment are to provide an eligible person-

(1) Compensation for termination of the TRQ for qualifying worsted wool fabric; and

(2) A payment that is equivalent to the amount the eligible person would have saved during the calendar year for imports of qualifying worsted wool fabric if the lower duty rate under the applicable 2014 HTS subheading(s) of a qualifying worsted wool fabric were in effect.

(c) Calculation of monetized TRQ payment. A payment will be established by calculating, as provided in paragraphs (c)(1) through (4) of this section, the savings that would have been realized by the eligible person for imports of qualifying worsted wool fabric of the kind described in one of the three subheadings 9902.51.11, 9902.51.15, or 9902.51.16 of the 2014 HTS (as applicable), had the lower duty rate been in effect.

(1) Payment formula. Except as provided in paragraph (c)(2) of this section, a payment shall be calculated by

(i) Establishing the reported dollar value of imported worsted wool fabric, for each of the 2014 HTS subheadings of worsted wool fabric, during the calendar year immediately preceding the payment;

(ii) Subtracting the duty rate (converted to numeric value) for each applicable 2014 HTS subheading of worsted wool fabric that would have been paid in calendar year 2014 from the duty rate (converted to numeric value) that was actually paid in the calendar year immediately preceding the payment;

(iii) For each applicable 2014 HTS subheading of worsted wool fabric, multiplying the numeric values described in paragraphs (c)(1)(i) and (ii) of this section; and

(iv) Adding each product obtained in paragraph (c)(1)(iii) of this section.

(2) Exception for 2015 payment. In the case of the payment to be made in 2015, for purposes of the calculation component described in paragraph (c)(1)(ii) of this section the duty rate applicable in 2015 shall be deemed the duty rate actually paid in 2014. The reason for this exception for the 2015 payment is that 2014 is both the last year in which the lower duty rate was still in effect, and is also the calendar year immediately preceding the payment (the payment is in 2015). As a result, for the 2015 payment, a proxy is necessary for the higher duty rate in the calendar year immediately preceding the payment.

(3) 2015 payment. A payment in 2015 shall be calculated by

(i) Establishing the reported dollar value of imported worsted wool fabric during the calendar year immediately preceding the payment under the 2014 HTS subheading of worsted wool fabric;

(ii) Subtracting the lower duty rate (converted to numeric value) that would have been applicable to the 2014 HTS subheading of worsted wool fabric from the duty rate applicable to that HTS subheading in 2015 (converted to numeric value);

(iii) Multiplying the numeric values described in paragraphs (c)(3)(i) and (ii) of this section; and (iv) Adding the product obtained in paragraph (c)(3)(iii) of this section to the product obtained for every applicable subheading of worsted wool fabric.

(4) 2016-2019 payments. A payment in each of years 2016-2019 shall be calculated by

(i) Establishing the reported dollar value of imported worsted wool fabric during the calendar year immediately preceding the payment under the 2014 HTS subheading of worsted wool fabric;

(ii) Subtracting the lower duty rate (converted to numeric value) that would have been applicable to the 2014 HTS subheading of worsted wool fabric from the duty rate applicable to the calendar year preceding the payment (converted to numeric value);

(iii) Multiplying the numeric values described in paragraphs (c)(4)(i) and (ii) of this section; and

(iv) Adding the product obtained in paragraph (c)(3)(iii) of this section to the product obtained for every applicable subheading of worsted wool fabric.

(d) Annual affidavit — (1) In general. An eligible person applying for a payment under this section shall comply with all applicable reporting requirements of this section and of § 1471.10.

(2) Specific business information — (i) Imports and production.—An eligible person shall, for the entire calendar year immediately preceding the payment, report the actual dollar value and the actual quantity of

(A) Imports into the U.S. of qualifying worsted wool fabric (square meters); and

(B) The qualifying worsted wool fabric used by the eligible person in the U.S.

(1) In the case of wool of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, to produce worsted wool suits, suit-type jackets and trousers for men and boys (units); or

(2) In the case of wool of the kind described in subheading 9902.51.16 of the 2014 HTS, such wool that was manufactured (square meters).

(ii) Direct and indirect importers — (A) In general. Eligible persons that import qualifying worsted wool fabric through a third party broker are considered to be indirect importers of the qualifying worsted wool fabric. Persons that directly import qualifying worsted wool fabric and pay the import duty for such wool are considered to be direct importers of the qualifying worsted wool fabric.

(B) Reported dollar value. Eligible persons must state in their annual affidavit whether, in the calendar year immediately preceding the payment, they were direct or indirect importers, and the dollar value of the



imported qualifying worsted wool fabric. The reported dollar value of such imports by indirect importers will be subject to a 10% reduction.

(C) Affirmation. An eligible person shall annually affirm in the affidavit that, in the calendar year immediately preceding the payment, in the U.S., the eligible person:

(1) Directly or indirectly imported the qualifying worsted wool fabric into the U.S.;

(2) Used that fabric to produce in the U.S. worsted wool suits, suit jackets, and trousers for men and boys (or, in the case of qualifying worsted wool fabric of the kind described in the 2014 HTS subheading 9902.51.16, for manufactured in the U.S.); and

(3) Imported qualifying worsted wool fabric from the country of origin identified in the affidavit.

(iii) Import documentation — (A) Direct imports. Applicable to the calendar year immediately preceding payment, an eligible person that directly imported qualifying worsted wool fabric is required to submit to FAS as part of the affidavit package scanned copies of CBP Form 7501 “Entry Summary” for the relevant calculations made in the affidavit.

(B) Indirect imports. Applicable to the calendar year immediately preceding payment, an eligible person that indirectly imported qualifying worsted wool fabric is required to submit to FAS as part of the affidavit package invoices from third party brokers as required in the affidavit.

(3) Production of garments or manufacturing of qualifying worsted wool fabric — (i) Production of garments — (A) In general. When reporting the annual dollar value and quantity

of imported qualifying worsted wool fabric, and the annual dollar value and quantity of the qualifying worsted wool fabric that was cut and sewn, an eligible person may either have cut and sewn the wool on its own behalf or had another person cut and sew the wool on behalf of the eligible person, provided the eligible person owned the wool at the time it was cut and sewn.

(B) Applicability. This paragraph applies to wool of the kind described in subheadings 9902.51.11 and 9902.51.15 of the 2014 HTS.

(ii) Manufacturing of qualifying worsted wool fabric — (A) In general. When reporting the annual dollar value and quantity of imported qualifying worsted wool fabric, and the annual dollar value and quantity of the qualifying worsted wool fabric that was manufactured, an eligible person may either have manufactured the wool on its own behalf or had another person manufacture the wool, provided the eligible person owned the wool at the time of manufacture.

(B) Applicability. This paragraph applies to wool of the kind described in subheading 9902.51.16 of the 2014 HTS.

#### **§ 1471.14 Wool yarn, wool fiber, and wool top duty compensation payment.**

(a) Definitions. In this section the following definitions apply:

(1) Duty. The term “duty” means the duty rate codified in the HTS for a year that is applicable to qualifying wool of the kind described in subheadings 9902.51.13 and 9902.51.14 of the 2014 HTS.

(2) Eligible person — (i) In general. The term “eligible person” means a manufacturer (or a successor-in-interest to the manufacturer) in the U.S. during the calendar year immediately preceding the payment; that

(A) Imported qualifying wool; and

(B) Manufactured the qualifying wool.

(ii) Successor-in-interest. If a person satisfies the criteria for becoming a successor-in-interest to an eligible person under paragraph (a)(4) of this section, the person shall succeed to the status of the eligible person and become eligible for the payment.

(3) Qualifying wool. The term “qualifying wool” means imported wool yarn of the kind described in subheading 9902.51.13 of the 2014 HTS, and imported wool fiber or wool top of the kind described in subheading 9902.51.14 of the 2014 HTS, that, during the calendar year immediately preceding the payment was

(i) Imported, directly or indirectly, by an eligible person (or a successor-in-interest) into the U.S.; and

(ii) Manufactured by the eligible person in the U.S..

(4) Successor-in-interest. The term “successor-in-interest” means a person that is eligible to claim a payment under this section as if the person were the original eligible manufacturer, without regard to section 3727, title 31, U.S. Code because of

(i) An assignment of the claim;

(ii) An assignment of the eligible person’s right to manufacture under the same trade name; or

(iii) A reorganization of the eligible person.

(b) Import duties. The duties on imports of qualifying wool were suspended in their entirety in section 503 of the Trade and Development Act of 2000. The suspension of the duties for both HTS subheadings of qualifying wool was extended through December 31, 2014. These duties were reinstated as of January 1, 2015.

(c) Duty compensation payment — (1) Calculation of payment. For each of the 2015-2019 calendar years the duty compensation payment of an eligible person will be established by calculating, as provided in paragraphs (c)(2) through (5) of this section, the savings that would have been realized by the eligible person for imports of qualifying wool had the duty suspension been in effect.

(2) Savings for each subheading. The savings realized by an eligible person for imports of qualifying wool under a HTS subheading covered by this section shall be obtained by multiplying

(i) The reported dollar value of imports under a HTS subheading during the calendar year immediately preceding the payment; and

(ii) Except as provided in paragraph (c)(5) of this section, the duty applicable to that HTS subheading in the calendar year preceding the payment, converted to numeric value.

(3) Sum of subheading savings. The product obtained in paragraph (c)(2) of this section for imports of qualifying wool previously described under each HTS subheading shall be added to the savings obtained for imports under the other HTS subheading (as applicable).

(4) Duty compensation payment amount. The sum obtained in paragraph (c)(3) of this section shall equal the annual duty compensation payment for the eligible person for the applicable calendar year.

(5) Exception for 2015 payment. In the case of the 2015 payment, for purposes of the calculation component described in paragraph (c)(2) of this section the duty rate applicable in 2015 shall be deemed the duty rate actually paid in 2014. The reason for

this exception for the 2015 payment is that 2014 is both the last year in which the duty suspension was still in effect, and is also the calendar year immediately preceding the payment (the payment is in 2015). As a result, for the 2015 payment, a proxy is necessary for the higher duty rate in the calendar year immediately preceding the payment.

(d) Annual affidavit required— (1) In general. An eligible person applying for a payment under this section shall comply with all applicable reporting requirements described in this section and § 1471.10.

(2) Specific business information — (i) Imports and production. An eligible person shall, for the calendar year immediately preceding the payment, report the actual dollar value and the actual quantity of:

(A) Imports into the U.S. of qualifying wool by the eligible person; and

(B) Such qualifying wool that was manufactured in the U.S. by the eligible person.

(ii) Direct and indirect importers — (A) In general. Eligible persons that import qualifying wool through a third party broker are considered to be indirect importers of the qualifying wool. Persons that directly import qualifying wool and pay the import duty for such wool are considered to be direct importers of the qualifying wool.

(B) Reported dollar value. Eligible persons must state in their annual affidavit whether, in the calendar year immediately preceding the payment, they were direct or indirect importers, and the dollar value of the imported qualifying

wool. The reported dollar value of imports by indirect importers will be subject to a 10% reduction.

(C) Affirmation. An eligible person shall annually affirm in the affidavit that, in the calendar year immediately preceding the payment, the eligible person

(1) Directly or indirectly imported the qualifying wool into the U.S.;

(2) Manufactured the qualifying wool in the U.S.; and

(3) Imported qualifying wool from the country of origin identified in the affidavit.

(iii) Import documentation — (A) Direct imports. Applicable to the calendar year immediately preceding the payment, an eligible person that directly imported qualifying wool is required to submit to FAS as part of the affidavit package scanned copies of CBP Form 7501 “Entry Summary” for the relevant calculations made in the affidavit.

(B) Indirect imports. Applicable to the calendar year immediately preceding the payment, an eligible person that indirectly imported qualifying wool is required to submit to FAS as part of the affidavit package invoices from third party brokers for the relevant calculations made in the affidavit.

(3) Manufacture of qualifying wool. When reporting the annual dollar value and quantity of imported qualifying wool, and the annual dollar value and quantity of the qualifying wool that was manufactured, an eligible person may either have manufactured the qualifying wool on its own behalf or had another person manufacture the qualifying wool, provided the eligible person owned the qualifying wool at the time of manufacture.

Dated: February 25, 2015.

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[FR Doc. 2015-04385 Filed: 3/6/2015 08:45 am; Publication Date: 3/9/2015]